

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JACK LONG,

Plaintiff,

vs.

No. CIV 07-581 JB/LAM

THE UNITED STATES OF AMERICA,
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,
UNITED STATES DEPARTMENT OF AGRICULTURE,
USDA RURAL DEVELOPMENT,
NEW MEXICO STATE ENVIRONMENT DEPARTMENT,
VILLAGE OF COLUMBUS,

Defendants.

MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court on the Plaintiff's Motion Contesting the Content of Administrative Record and Request for the Admittance of Extra-Record Documents, filed January 15, 2008 (Doc. 42). The Court held a hearing on March 3, 2008. The primary issues are: (i) whether the Court should allow Plaintiff Jack Long to supplement the Administrative Record with two technical reports from 2000 concerning aquifers in the United States and Mexico border region in New Mexico; and (ii) whether the Court should allow Long to supplement the Administrative Record with a January 11, 2008 Affidavit from Long and an accompanying petition concerning the reverse osmosis water treatment facility at issue in this litigation. For the reasons stated at the hearing, and for further reasons consistent with those stated, the Court will grant the motion in part and deny the motion in part, and allow supplementation of the Administrative Record with the two technical reports, but not allow supplementation of the Administrative Record with the other two documents.

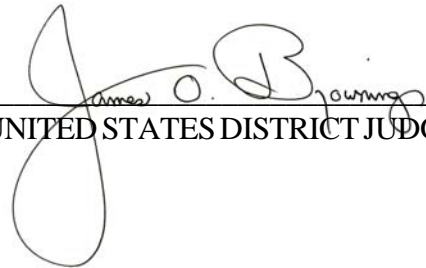
PROCEDURAL BACKGROUND

Long, in his original Complaint, filed June 15, 2007, stated a number of facts contained in scientific studies of the Mimbres aquifer. See Complaint at 4-5, filed June 15, 2007 (Doc. 1).

Pursuant to the Court's Order Setting Briefing Schedule, filed October 31, 2007, Long brings a motion contesting the content of the Administrative Record and for the extra-record documents before the Court. See Order Setting Briefing Schedule, filed October 31, 2007 (Doc. 36). The extra-record documents that Long moves for admittance are:

1. Tanski, J., et al. (2000). Southwest Center for Environmental Research and Policy, Water Quality on the U.S. -- Mexico Border: An Assessment of the Mimbres Basin Aquifer and the Region Surrounding Columbus, New Mexico, USA and Puerto Palomas, Chihuahua, Mexico. Final Report -- SCERP Project No. PP96II-19. 128 pp. + appendices. available at <http://www.scerp.org/projects/Tanski.pdf>
2. Hawley, J., at al. (2000). Trans-International Boundary Aquifers in Southwest New Mexico Technical Completion Report prepared for U.S. Environmental Protection Agency -- Region 6 and the International Boundary and Water Commission -- U.S. Section. available at <http://wrri.nmsu.edu/publish/other rpt/swnm/DiVu/dounels.html>
3. Affidavit of Jack H. Long affirming the authenticity of petition and signatures of residents of the Village of Columbus opposing the RO centralized water system because of the waste of water and the high water rate structure.
4. Copies of the approximately 300 petition signatures referred to in the above affidavit.

IT IS ORDERED that the Motion Contesting the Content of Administrative Record and Request for the Admittance of Extra-Record Documents is granted in part and denied in part. The Court will allow the Plaintiff to supplement the Administrative Record with the two technical reports. The Court will not allow supplementation of the Administrative Record with the other two documents.



UNITED STATES DISTRICT JUDGE

Parties and counsel:

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